THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION Nos.6281,6613 and 6664 of 2003

Dated:15.06.2007

Between:

K.Lakshmi Narasimha Rao and others.

…Petitioners

and

The Agent to the Government – cum – District Collector, West Godavary and another.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION Nos.6281,6613 and 6664 of 2003

COMMON ORDER: (Per the Hon'ble Sri Justice V.V.S.Rao)

The petitioners are non-tribals. All of them purchased different extents of lands situated at Barrinkalapadu Village of Jeelugumilli Mandal in West Godavari District. These lands allegedly never belonged to Tribals in the agency area. The Special Deputy Collector (Tribal Welfare), Kota Ramachandrapuram, initiated action under Section 3(2)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) as amended by Regulation I of 1970 (hereinafter called 'the Regulation'). After receiving notices, all the petitioners opposed the proceedings for ejectment. They also produced evidence in support of their contention that the lands in their possession are never tribal lands. However, accepting the plea, the Special Deputy Collector disallowed the cases, being S.R.Nos.214, 216 and 211 of 1992 and 289 of 1993. These orders are passed in July/August, 1993. The Special Deputy Tahasildar (Tribal Welfare), Kota Ramachandrapuram, filed appeals in 2003. These were registered as S.R.A.Nos.139, 132 and 53 of 2003 by the first respondent, who issued notices of enquiry. Assailing these notices,

these three Writ Petitions are filed. As the issue involved is short and common to all the Writ Petitions, it is expedient to dispose of them by a common order.

Learned counsel for the petitioners submits that the action of the first respondent in entertaining appeals under Section 3(2)(a) of the Regulation after lapse of ten years without there being any application for condonation of delay is improper, and entertaining appeals filed after a period of limitation amounts to acting without jurisdiction. **Per contra**, learned Government Pleader for Social Welfare invites the attention of this Court to Section 3(2)(a) of the Regulation and Rule 8 of the Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969 (for short 'the Rules'), and submits that for sufficient reasons, delay in filing the appeals can be condoned. He, however, does not dispute that the Special Deputy Tahasildar while preferring appeals after a period of ten years did not file any applications for condonation of delay.

In the background of facts, as briefly narrated hereinabove, it has come out that the appeals were indeed filed after a period of ten years without proper applications for condonation of delay. In the absence of such applications, entertaining appeals and issue of notices of hearing by the first respondent cannot be sustained in law. Be it noted that under Rule 8(2) of the Rules, an appeal is to be filed within a period of two months from the date of order of the original authority, and under Section 3(2)(b) of the Regulation power is vested in the appellate authority to entertain appeal on sufficient cause being shown after expiry of the period of limitation. Even now, it is open to the Special Deputy Tahasildar (Tribal Welfare) to file proper applications before the first respondent for condonation of delay. These applications, it goes without saying, have to be considered by the first respondent after issuing notices to the petitioners individually. Only after condonation of delay for sufficient cause the first respondent can proceed further. In case sufficient cause is not shown and there are no proper reasons for filing appeals with abnormal delay of ten years, the appeals cannot be entertained.

These Writ Petitions, with the above observations and directions, are accordingly disposed of. No costs.

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(V.V.S.RAO, J)

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(G.V.SEETHAPATHY, J)

15.06.2007
Note:Issue C.C. in one week.
(B/o)
GJ